



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,229	09/26/2003	Vinod Sharma	P-11083.00	2880
27581	7590	06/30/2006	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			KRAMER, NICOLE R	
			ART UNIT	PAPER NUMBER
			3762	
DATE MAILED: 06/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/672,229

Applicant(s)

SHARMA, VINOD

Examiner

Nicole R. Kramer

Art Unit

3762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached Responses to Arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. With respect to the rejections based on Sharma et al. and DeGroot, Applicant's arguments filed 6/19/06 have been fully considered but they are not persuasive.
2. Applicant argues that Sharma fails to disclose "formulating an ATP regimen having ATP parameters defined as a function of the measured exploratory RCL" because the ATP parameters in Sharma are not a function of the measured exploratory RCL. Examiner respectfully disagrees. Examiner considers parameters of anti-tachycardia pacing to include the start time (i.e., the time that the first pacing pulse is delivered) of the pacing regimen. Since Sharma discloses that the start-time of the ATP therapy to be delivered differs depending upon whether the IMD determines that the episode is a VT or a SVT (for example, if the episode is determined to be a VT, scheduled therapy is delivered as illustrated in step 422 of Fig. 4, but if the episode is determined to be an SVT, therapy is withheld as illustrated in step 424 of Fig. 4), Examiner considers the IMD to "formulate an ATP regimen having ATP parameters defined as a function of the measured exploratory RCL."
3. Similarly, Applicant argues that DeGroot fails to disclose "formulating an ATP regimen having ATP parameters defined as a function of the measured exploratory RCL" because the ATP parameters in Degroot are not a function of the measured

Art Unit: 3762

exploratory RCL. Applicant argues that the ATP parameters (e.g., the inter-pulse interval) are established as a function of the interval T2 rather than the return cycle T4 (see page 23 of arguments filed 6/19/06). Examiner respectfully disagrees. In the method disclosed in DeGroot, **the parameters of the delivered ATP regimen depends upon the relationship of return cycle T4 and T3** - that is, either the device continues delivery of pacing pulses separated by intervals T2 or switches to a different therapy having preferably having an inter-pulse interval somewhat less than T2 (see col. 2, line 63 - col. 3, line 3). More specifically, if the return cycle T4 increases in comparison to return cycle T3, the IMD continues to deliver pacing pulses at the same pacing intervals T2 because the increasing return cycle is an indicator that the current pacing interval will successfully terminate the tachycardia. However, if the return cycle T4 does not increase in comparison to return cycle T3, the IMD schedules the next available therapy, preferably a new pacing regimen having an inter-pulse interval somewhat less than T2 (see, for example, col. 5, line 43 - col. 6, line 30). Since the applied inter-pulse interval varies depending upon whether the measured exploratory RCL (that is, the return cycle T4) increases or does not increase with respect to T3, the ATP parameters are considered to be "defined as a function of the measured exploratory RCL."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole R. Kramer whose telephone number is 571-272-

Art Unit: 3762

8792. The examiner can normally be reached on Monday through Friday, 8 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NRK

6/20/06



George Manuel
Primary Examiner